



GOVERNMENT OF KERALA

Labour and Rehabilitation (E) Department

NOTIFICATION

G.O. (Ms.) No. 65/2007/LBR.

Dated, Thiruvananthapuram, 28th May 2007.

S. R. O. No. 563/2007.—WHEREAS, M/s Fertilisers and Chemicals Travancore Limited, Udyogamandal (hereinafter referred to as the said establishment) has applied for exemption under Para 27 A of the Employees Provident Fund Scheme, 1952 (hereinafter referred to as the said scheme);

AND WHEREAS in the opinion of the Government of Kerala the rules of Provident Fund, Gratuity or old age pension of the said establishment are not less favourable to employees therein than those specified in the said scheme and the employees in the said establishment are also in enjoyment of other retirement benefits which are on the whole not less favourable to the employees than the benefits provided under the said scheme in relation to the employees in any other establishment of similar character;

NOW, THEREFORE, in exercise of the powers conferred by Para 27 A of the said scheme and subject to the conditions specified in the schedule annexed hereto, the Government of Kerala hereby exempt the regular employees of M/s Fertilisers and Chemicals Travancore Limited, Udyogamandal who are subscribers to the Provident Fund of the said establishment from the operation of all the provisions of the said scheme with effect from 25th January, 2007.

SCHEDULE

1. The Employer in relation to the said establishment shall provide such facilities for inspection and pay such inspection charges as the Central Government may from time to time direct under clause (a) of the sub-section (3) of section 17 of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) read with sub-para (2) of Para 27 of the Employees Provident Fund Scheme within 15 days from the close of every month.

2. The rate of contribution payable under the Provident Fund Rules of the establishment shall at no time be lower than those payable under the said Act in respect of the unexempted establishment and the scheme framed thereunder.

3. Any amendment to the employees said scheme, which is more beneficial to the employees than the existing rules of the establishment shall be made applicable to them automatically. No amendment of the rules of the Provident Fund of the said establishment shall be made without the previous approval of the Regional Provident Fund Commissioner and where any amendment likely to affect adversely the interest of the employees of the said establishment, the Regional Provident Fund Commissioner, shall before giving his approval give a reasonable opportunity to the employees to explain their points of view.

4. All employees [as defined in section 2 (f) of the said Act] who would have been eligible to become members of the Provident Fund, had the establishment not been granted exemption, shall be enrolled as members.

5. Whereas employees who is already a member of the employees, Provident Fund (Statutory) or a Provident Fund of any other exempted establishment is employed in his establishment, the employer shall immediately enroll him as a member of the fund and arrange to have the accumulations in the Provident Fund account of such employee with his previous employer transferred and credited to his account.

6. The employer shall establish a Board of Trustees for the Management of Provident Fund according to such directions as may be given by the Regional Provident Fund Commissioner or the Central Provident Fund Commissioner or the Central Government, as the case may be, from time to time.

7. The Provident Fund shall vest in the Board of Trustees who will be responsible for and accountable to the Employees' Provident Fund Organisation interalia for proper accounts of the receipt into and payments from the provident fund and the balance in their custody.

8. The Board of Trustees shall meet at least once in every three months and shall function in accordance with the guidelines that may be issued from time to time by the Central Government/Central Provident Fund Commissioner or an officer authorized by him.

9. The accounts of the Provident Fund maintained by the Board of Trustees shall be subject to audit by a qualified independent Chartered Accountant annually. Where considered necessary, the Regional Provident

Fund Commissioner shall have the right to have the accounts reaudited by any other qualified auditor and the expenses so incurred shall be borne by the employer.

10. A copy of the audited annual Provident Fund Accounts together with the audited balance sheet of the establishment for each accounting year shall be submitted to the Regional Provident Fund Commissioner within six months after the close of the financial year. For his purpose the financial year of the Provident Fund shall be from the 1st April to the 31st March.

11. The employer shall transfer to the Board of Trustees the contributions payable to the Provident Fund by himself and the employees by the 15th of each month following the month for which the contributions are payable. The employer shall be liable to pay damages to the Board of Trustees for any delay in payment of the contribution in the same manner as an unexempted establishment is liable under similar circumstances.

12. The Board of Trustees shall invest the money in the Fund as per directions that may be given by the Central Government from time to time. The securities shall be obtained in the name of the Board of Trustees and shall be kept in the custody of a Scheduled Bank under the credit control of the Reserve Bank of India.

13. Failure to make the investment as per directions of the Government shall make the Board of Trustees severally and jointly liable to surcharge as may be imposed by the Central Provident Fund Commissioner/Regional Provident Fund Commissioner or his representative.

14. The Board of Trustees shall maintain a script-wise register and ensure timely realisation of interest and redemption proceeds.

15. The Board of Trustees shall maintain detailed accounts of the Fund in such manner and submit such returns to Regional Provident Fund Commissioner or Central Provident Fund Commissioner may from time to time direct.

16. The Board shall issue an annual statement of accounts to every employee within six months of the close of the financial year.

17. The Board may instead of the annual statement of accounts, issue of passbooks to every employee. Those passbooks shall remain in the custody of the employees and will be brought upto-date by the Board on presentation by the employees.

18. The accounts of each employee shall be credited with interest calculated on the opening balance as on the 1st day of the accounting year at such rate may be decided by the Board of Trustees but shall be not lower than the rate declared by the Central Government under para 60 of the said scheme.

19. If the Board of Trustees are unable to pay interest at the rate declared by the Central Government for the reason that the return on investment is less or for any other reason, the deficiency shall be made good by the employer.

20. The employer shall also make good any other loss that may be caused to the provident fund due to the theft, burglary, defalcation, misappropriation or any other reason.

21. The employer as well as the Board of Trustees shall submit returns to the Provident Fund Commissioner as the Central Government/Central Provident Fund Commissioner /Regional Provident Fund Commissioner may prescribe from time to time.

22. If the provident fund rules of the establishment provide for forfeiture of the employers contributions in case where an employees ceases to be a member of the fund on the lines of para 69 of the said scheme, the Board of trustees shall maintain a separate account of the amounts to be forfeited and may utilize the same for such purpose as may be determined with the prior approval of the Central Provident Fund Commissioner/Regional Provident Fund Commissioner.

23. Notwithstanding anything contained in the rules of the provident fund of the establishment, if the amount payable to any member upon his ceasing to be an employee of the establishment or transferable on his transfer to any other establishment by way of employer and employees' contribution plus interest thereon taken together with amount, if any payable under the pension rules be less than the amount that would be payable as employer's and employees' contribution plus interest thereon if he were a member of the provident fund under the said scheme, the employer shall pay the difference to the member as compensation or special contribution.

24. The employer shall bear all the expenses of the administration of Provident Fund including the maintenance of accounts, submission of returns, transfer of accumulations etc.

25. The employer shall display on the notice board of the establishment a copy of the rules of the fund as approved by the appropriate authority and as and when amended thereto along with a translation of the salient points thereof in the language of the majority of the employees.

26. The Regional Provident Fund Commissioner may lay down any further conditions for continued exemption of the establishment.

27. The employee shall enhance the rate of Provident Fund contribution appropriately if the rate of Provident Fund contribution for the class of establishment in which his establishment belonged is enhanced under the said Act so that the benefits under the provident fund scheme of the establishment shall not become less favourable than the benefits provided under the said Act.

28. The exemption granted under Para 27 A of the scheme is liable to be cancelled for violation of any of the above conditions.

By order of the Governor,

C. K. VISWANATHAN,
Secretary to Government.

Explanatory Note

(This does not form part of the Notification, but is intended to achieve its general purport.)

M/s. Fertilisers and Chemicals Travancore Limited, Udyogamandal has requested to cancel exemption already granted to them under the Employees Provident Fund and Miscellaneous Provisions Act, 1952 and to grant exemption to the regular employees under Para 27 A of the Employees Provident Fund Scheme 1952 as they enjoy the benefits of the Provident Fund of the establishment. The benefits available under the scheme are not less favourable than the benefits provided under the Employees Provident Fund Act, 1952. The company is operating separate heads as P. F. Trust in respect of their regular employees. Government have therefore, cancelled the exemption granted under section 17(1) of the said Act as per the notification G. O. (Ms) No. 13/2007/LBR dated 24th January, 2007 published as S.R.O. No. 159/2007 in the Kerala Gazette No. 8 dated 21st February, 2007 and have decided to grant exemption to the regular employees of the establishment namely, M/s. Fertilisers and Chemicals Travancore Limited, Udyogamandal under Para 27 A of the Employees Provident Fund Scheme 1952 with effect from 25th January 2007.

This notification is intended to achieve the above purport.